

## REMARKS

### Introductory Comments

Reconsideration of the above-identified application in view of the above amendments and arguments set forth is respectfully requested.

Claims 41-56, 59-65 and 73-74 are pending and under consideration. Claim 41 has been amended to correct minor typographical errors. Claim 48 has been amended to remove the recitations "inbred" and "hybrid". Claims 49 and 50 have been amended to remove the recitation "hybrid". Claims 57-58 have been deleted. Claims 59 and 60 have been amended to recite the phrase "containing a recessive allele for reduced apical dominance". No new matter has been added as a result of these amendments.

### ATCC Deposit

Applicants deposited the requisite seeds necessary for claims 41 and 47 with the American Type Culture Collection ("A.T.C.C.") in June, 2005. Applicants are still waiting to hear from the A.T.C.C. regarding said deposit. As soon as the undersigned attorney receives this information, she will contact the Examiner.

### Specification Amendment

Applicants thank the Examiner for the reminder to amend the specification to include the deposit information for inbred line 752. The specification has been amended to recite this information.

### Drawings

The Examiner reminds Applicants that color photographs are acceptable only for examination purposes unless a petition is filed under 37 CFR 1.84(a)(2) and is granted permitting their use as acceptable drawings. Applicants herewith enclose such a petition for acceptance of color drawings.

Rejection of Claim 48 and Dependent Claims 49-54 under 35 U.S.C. Section 112, Second Paragraph

Claim 48 and dependent claims 49-54 have been rejected under 35 U.S.C. Section 112, second paragraph as being indefinite. More specifically, the Examiner says that claim 48 is rejected due to the recitation "inbred". While disagreeing with the Examiner's rejection, in order to expedite prosecution, Applicants have amended claim 48 to remove the recitations "inbred" and "hybrid". Similar amendments have been made to claims 49 and 50. In view of these amendments, Applicants submit that this rejection should be withdrawn.

Rejection of Claims 57-59 and 65 and dependent claims 60-64 under 35 U.S.C. Section 102(b) as being unpatentable over Harbaugh et al.

Claims 57-59, 65 and 60-64 are rejected under 35 U.S.C. Section 102(b) as being unpatentable over Harbaugh et al. While not agreeing with the Examiner's rejection, in an effort to expedite prosecution, claims 57 and 58 have been deleted. Claims 59 and 60 have been amended to recite that the claimed deposited *Eustoma* seed and plants grown from this seed contain a recessive allele for reduced apical dominance. Harbaugh et al. simply do not disclose the claimed deposited seed, plants grown from said deposited seed, pollen, ovules, tissue culture or cuttings derived from said plants grown from said deposited seed that contain a recessive allele for reduced apical dominance. Therefore, in view of the aforementioned amendments and arguments, Applicants submit that this rejection is now moot and should be withdrawn.

**CONCLUSION**

Applicants respectfully submit that the claims comply with the requirements of 35 U.S.C. Sections 112 and 102. Accordingly, a Notice of Allowance is believed in order and is respectfully requested.

Should the Examiner have any questions concerning the above, she is respectfully requested to contact the undersigned at the telephone number listed

below. If the Examiner notes any further matters which the Examiner believes may be expedited by a telephone interview, the Examiner is requested to contact the undersigned.

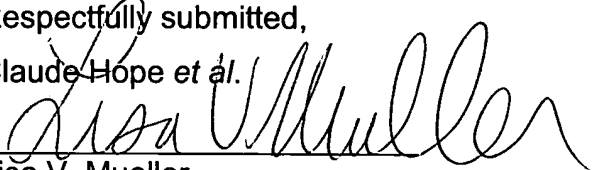
If any additional fees are incurred as a result of the filing of this paper, authorization is given to charge deposit account no. 23-0785.

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Respectfully submitted,

~~Claude Hope et al.~~

  
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